



Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, NOVEMBER 12, 2002
WWW.USDOJ.GOV

AT
(202) 616-2777
TDD (202) 514-1888

JUSTICE DEPARTMENT CLEARS WAY FOR FORMATION OF WIRELESS TELECOMMUNICATIONS PATENT PLATFORMS

WASHINGTON, D.C. -- The Department of Justice today cleared the way for the 3G Patent Platform Partnership to establish five patent licensing and evaluation structures — commonly referred to as “patent platforms” — for “Third Generation” (3G) wireless telecommunications technologies. The Department assented to the proposal after the 3G Patent Platform Partnership agreed to make substantial modifications to address the Department’s competitive concerns. These modifications principally involved the separation of the original proposal’s single patent platform into five largely independent platforms, one for each competing 3G wireless technology.

The Department’s position was stated in a business review letter from Charles A. James, Assistant Attorney General for the Antitrust Division, to counsel for the 3G Patent Platform Partnership, a group that currently has nineteen European and Asian companies as members.

“The creation of patent platforms for third generation wireless telecommunications technologies can achieve substantial efficiencies in identifying essential patents, reduce holdup problems that can occur in negotiations with individual licensors, and aid in the rapid introduction of 3G wireless services,” said James. “Separate patent platforms governed by licensors for each 3G technology will help to ensure that the platform arrangements do not limit competition among substitutable 3G technologies, or create an opportunity for collusion among licensees of any 3G technology.”

At the same time, the European Commission has issued a “comfort letter” under European competition law approving the creation of the 3G platforms with their limited common functions.

According to the Department’s business review letter, the patent platform arrangements likely would not impede competition, since each platform would include only the essential patents related to a single 3G technology. The limited shared functions amongst the five platforms would exclude competitively sensitive activities, such as setting royalties for standard licenses, and would preclude the sharing of competitively sensitive information. No patent holder would be compelled to join a platform if it did not have its patents evaluated or receive licenses under the platform terms. Licensors and licensees would remain free to negotiate independently to license 3G technology rather than using standardized platform arrangements.

Under the Department’s business review procedure, an organization may submit a proposed action to the Antitrust Division and receive a statement as to whether the Division will challenge the action under the antitrust laws. The Department’s conclusions in this business review apply only to the arrangements most recently notified for review by the 3G Patent Platform Partnership. They are not applicable to any other industry agreements or initiatives relating to common standards or arrangements for licensing 3G-related patents.

A file containing the business review request and the Department’s response may be examined in the Antitrust Documents Group of the Antitrust Division, Suite 215, Liberty Place,

325 7th Street, N.W., Department of Justice, Washington, D.C. 20530. After a 30-day waiting period, the documents supporting the business review will be added to the file.

02-662